

1 to dismiss a superseded pleading. *See* William W. Schwarzer *et al.*, Fed. Civ. Proc. Before Trial
2 ¶ 9:262 (2010). Accordingly, the Moving Defendants' motion to dismiss is **DENIED**
3 **WITHOUT PREJUDICE** as moot.

4 Based on the foregoing, it is hereby **ORDERED** as follows:

5 1. Plaintiff's Motion for Leave to File a First Amended Complaint is **GRANTED**. No
6 later than **February 7, 2011** Plaintiff shall file and serve the first amended complaint. In the
7 first amended complaint, Plaintiff shall address the issues raised in the Moving Defendants'
8 motion to dismiss.


9 2. The pending motion to dismiss and expunge lis pendens is **DENIED WITHOUT**
10 **PREJUDICE** as moot.

11 3. The Moving Defendants shall file a response to the amended complaint within the time
12 provided in Rule 15(a)(3). If Plaintiff fails to timely file the amended complaint, the Moving
13 Defendants may renew their motion to dismiss and expunge lis pendens by filing and serving it
14 no later than February 21, 2011.

15 4. The hearing date on Plaintiff's motion set on this court's calendar for February 7, 2011
16 is hereby **VACATED**.

17 **IT IS SO ORDERED.**

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19 DATED: January 24, 2011

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21 M. James Lorenz
22 United States District Court Judge
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